

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NASSAU : PART 33
3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK,

5 -against-

Indictment No.
167N-2005

6 MARK ORLANDO and HERVE JEANNOT,

7 Defendants.

8 -----X
Mineola, New York
April 19, 2005

9
10 B E F O R E: HONORABLE ALAN L. HONOROF
Acting Supreme Court Justice

11
12 A P P E A R A N C E S: (SAME AS PREVIOUSLY NOTED)

13 * * *

14 THE CLERK: Indictment 167N-05, the People
15 against Mark Orlando and Herve Jeannot, case on hearing
16 continued. People ready?

17 MR. HAYDEN: Ready, your Honor.

18 THE CLERK: Defendants ready?

19 MR. LEMKE: Defendant ready, your Honor.

20 MR. HOCHHEISER: Ready.

21 THE CLERK: All sides are ready, your Honor.

22 THE COURT: Good morning.

23 THE CLERK: Detective McHugh.

24 (Whereupon, the witness resumed the stand.)

25 THE CLERK: Detective, I remind you you're

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1 still under oath.

2 THE WITNESS: Yes.

3 MR. HAYDEN: May I proceed, your Honor?

4 THE COURT: Yes, please.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. HAYDEN:

7 Q. Detective, I want to take you back to Mr.
8 Orlando's arrest. Did you see Mr. Orlando being arrested?

9 A. Yes, I did.

10 Q. Describe the motor vehicle Mr. Orlando was driving
11 when he was arrested then.

12 A. He was driving a 1991 Mercury Cougar, color black.

13 Q. Was the New York license plate number CLG 3917?

14 A. Yes, it was.

15 Q. When did you become aware that Mr. Orlando was
16 driving that vehicle on Thursday, December 9, 2004?

17 A. I observed him driving it just prior to his arrest.
18 I had observed the auto earlier in the evening about 8 o'clock
19 at his place of employment parked in the lot.

20 Q. Had you spoken with Tommy Flores?

21 A. Yes, I had.

22 Q. What had he told you about that vehicle?

23 A. He had told me that Mark had driven his black Cougar
24 to work, and he told me the area of the lot in which it was
25 parked in.

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1 Q. You saw that that was the vehicle stopped at the
2 stop sign before your Bureau of Special Operations officers
3 approached it?

4 A. Yes.

5 Q. Did you eventually begin speaking with Mark Orlando?

6 A. Yes, I did.

7 Q. Who was present when you began speaking with Mark
8 Orlando?

9 A. Detective James McGinn from the Homicide Squad.

10 Q. Was Mark Orlando handcuffed when you began speaking
11 with him?

12 A. No, he was not.

13 Q. Describe any initial conversation with Mark Orlando.

14 A. I introduced myself and Detective McGinn again. I
15 told him I wanted to speak to him about the death of Bobby
16 Calabrese, and I told him before I did that I was going to
17 advise him of his Miranda warnings.

18 Q. Did you do that?

19 A. Yes, I did.

20 Q. How?

21 A. I read him his rights off of a police department
22 form 233, notification of rights form.

23 Q. Describe any markings that were eventually placed on
24 that card.

25 A. Mr. Orlando wrote the word yes next to "Do you

1 understand?" and he signed the card in two spots. I placed
2 the date and Homicide Squad number on the card. I signed it
3 as well as Detective McGinn.

4 MR. HAYDEN: May I please have this card
5 marked?

6 THE COURT: That's the original?

7 MR. HAYDEN: Yes, it is.

8 THE COURT: Deem it.

9 (Whereupon, People's Exhibit 3 was deemed marked for
10 identification.)

11 Q. Do you recognize that card?

12 A. Yes, I do.

13 Q. What is it?

14 A. It's the rights' card that I read to Mark Orlando.

15 Q. How do you know that's the card?

16 A. The Homicide Squad number, the date, Mr. Orlando's
17 signature in two spots, my signature as well as Detective
18 McGinn's signature.

19 MR. HAYDEN: We would ask, your Honor, that
20 that card be deemed People's 3 in evidence.

21 THE COURT: Please show it to both counsel.

22 MR. LEMKE: Again, your Honor, for purposes
23 of this hearing, no objection.

24 THE COURT: All right, it's received deemed
25 People's 3.

1 (Whereupon, People's Exhibit 3 was deemed marked in evidence.)

2 Q. Using that card in evidence, please read the
3 Constitutional rights for the Court the same way you read them
4 for Mark Orlando and please include any responses he may have
5 made.

6 A. Before asking you any questions, you should
7 understand you have the right to remain silent and that any
8 statements you make may be used against you in court. Also
9 you have the right to talk to a lawyer before answering any
10 questions or to have a lawyer present at any time. If you
11 cannot afford to hire a lawyer, one will be furnished you if
12 you wish, and you have the right to keep silent until you have
13 had a chance to talk with a lawyer.

14 I asked the question that's also on the card: "Do
15 you understand?" He said yes.

16 I then read: Now that I have advised you of your
17 rights, are you willing to answer questions? He again said
18 yes.

19 Q. Did you and Detective McGinn speak with Mark Orlando
20 after he was informed of his Constitutional rights?

21 A. Yes, we did.

22 Q. Describe your involvement in that conversation.

23 A. I asked Mr. Orlando his home address, which he
24 provided, 1119 Joselson Avenue in Bay Shore. I asked him his
25 date of birth, which he told me was September 26, 1970. I

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1 asked him how he knew Bobby Calabrese. He told me he had been
2 introduced to Bobby Calabrese by a friend, a coworker by the
3 name of Tom Flores; that he had been introduced for the
4 purposes of making bets; that he had gambled with Bobby
5 Calabrese for about six weeks up until the time of his death;
6 that during the course of that six-week period he had won
7 approximately \$10,000. He would place the bets through an 888
8 offshore account number. His account number was Pop 1271,
9 with a password of Tom.

10 While he was betting with Bobby Calabrese, they
11 would usually square up at the end of the week, sometimes
12 Thursday, sometimes Friday. Up until the week of December 3
13 those payments would have taken place out in Farmingdale. On
14 the week of December 3 Mark Orlando had lost \$8700 which he
15 was due to pay Bobby Calabrese on Thursday or Friday. He was
16 also -- he also owed him \$9100 for bets that had been made
17 earlier in that same week. However, he explained to me that
18 that money would not be due until the following week. He
19 owed, between the two weeks of betting that I had described,
20 he owed a total of \$17,800. However, Bobby Calabrese owed him
21 \$800 from a prior payoff, which would drop the amount that he
22 actually owed to \$17,000.

23 On Thursday he was -- Mark Orlando was unable to
24 meet with Bobby Calabrese because he worked until 9:00 p.m.,
25 he told me, and after that, after getting off work, he had

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1 gone out with his wife on Thursday evening. So after being
2 unable to meet with him on Thursday, on Friday afternoon he
3 had called him and told him that he would meet him in the
4 evening down in Island Park. And the reason that he was going
5 to go to Island Park instead of the usual place in Farmingdale
6 was that he would be out and about. He had some business at
7 Wantagh Suzuki, so he explained to Bobby Calabrese that he
8 would be out driving anyway, so he would swing down to Island
9 Park. I asked him if he knew Island Park. He said yes. His
10 wife lived there at one time. She had some relatives that
11 lived there, and at one time his father owned a business, an
12 auto body or auto repair business, on Industrial Place in
13 Island Park.

14 After work on Friday afternoon he had gone to a gym,
15 LA Fitness, on Route 110 with Herve Jeannot, who also worked
16 with him. They were at the gym for about an hour, hour and a
17 half, and after that, he was going to drive down to Island
18 Park and pay Bobby Calabrese. Herve was out with him, so he
19 just asked Herve to take a ride with him. When they got down
20 to the area of the Long Beach bridge, about 8:25 p.m., Mark
21 Orlando called Bobby Calabrese on his cell phone, told him
22 that he was down in Island Park and told him to meet him over
23 by the former McQuade's restaurant by Industrial Place.

24 Herve Jeannot and Mark Orlando in Mr. Orlando's
25 Suzuki Verona parked in that area that I described, and a

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1 couple of minutes later Bobby Calabrese pulled up in his auto.
2 They had a brief discussion for a minute or two. He handed
3 the money out the window to Bobby Calabrese. And the last
4 time he saw Bobby Calabrese he was heading north towards
5 Oceanside, and Mr. Orlando and Herve Jeannot headed back
6 through Long Beach towards home.

7 Q. Describe Detective McGinn's involvement in that
8 conversation.

9 A. Detective McGinn had a minimal involvement in that
10 conversation. He may have asked a question or two, but I
11 don't remember specifics of it.

12 Q. Describe any further conversation and Detective
13 McGinn's involvement.

14 A. After Mr. Orlando described those events, he also
15 told me that he had called Wantagh Suzuki right as he was
16 leaving Island Park to see if he could come by and collect a
17 check that was owed him. He dealt with the boss there, a guy
18 by the name of Ralph. He was told that Ralph was gone for the
19 day, that the check was unavailable. When he got up to the
20 Wantagh area, he did stop at Wantagh Suzuki; however, they
21 were closed.

22 I asked him what else happened after that. He told
23 me he had stopped at an ATM in Wantagh. Since he had just
24 paid out \$17,000, he didn't have any cash on him, so he had to
25 stop at an ATM. And then he continued on to a friend's house,

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1 another coworker by the name of Vivian Barushik, who lived up
2 in Plainview. He stopped by her. He and Herve stopped by her
3 house to look at some brickwork, a fence and a pool she had
4 installed.

5 Q. Did Mark Orlando speak about his gambling?

6 A. Yes, he did.

7 Q. Describe that portion of the conversation.

8 A. I asked him what he gambled on. He told me at that
9 point he was gambling on football and basketball, college and
10 pros. I said to him, "I can't believe that you gamble on
11 basketball. It's my feeling that's the worst sport to gamble
12 on. It's the only sport where the final score doesn't matter.
13 If a team is up 10 points with 30 seconds left, they let the
14 other team score four points. They still win the game but
15 they don't cover the spread." He explained to me that you
16 never bet on the final score in the basketball game. You bet
17 on various other items: the half time score, the adjusted
18 line, the total points for quarters. Detective McGinn
19 conducted that portion of the interview relative to the recent
20 gambling activity with Bobby Orlando -- with Bobby Calabrese
21 by Mark Orlando, dates and specific numbers.

22 Q. Did Mark Orlando talk about being in debt?

23 A. Yes, he did. He also detailed to Detective McGinn
24 his mortgages, his credit card debt.

25 Q. Did he go into some detail with Detective McGinn?

1 A. Yes, he did. He went into a lot of detail relative
2 to those items.

3 Q. Did Mark Orlando write anything while you and
4 Detective McGinn were speaking with him then?

5 A. He had taken a pad that we had. He had asked for a
6 pen or pencil. We gave him a pencil. He did write, took some
7 notes. He made some diagrams.

8 Q. Was he taking notes throughout the conversation
9 about gambling?

10 A. Yes, he was.

11 Q. Did he take further notes?

12 A. Yes, he did.

13 Q. Four pages?

14 A. Four pages.

15 MR. HAYDEN: May I please have these four
16 sheets, your Honor, marked as People's 4A, B, C and D
17 for identification? These are originals, your Honor.

18 THE COURT: Let's deem these also. What I'd
19 like to do, if it's okay with all counsel, is anything
20 that we're deeming in I'd like to replace with
21 photocopies that you can all agree are accurate and
22 we'll mark the photocopies. I don't want this to get
23 out of control.

24 MR. HAYDEN: I would be glad to provide
25 those, Judge.

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1 THE COURT: Any objection?

2 MR. LEMKE: None, your Honor.

3 MR. HOCHHEISER: No objection.

4 (Whereupon, People's Exhibits 4A, B, C and D were deemed
5 marked for identification.)

6 Q. Do you recognize those notes?

7 A. Yes, I do.

8 Q. What are they?

9 A. These are the four pages of notes that Mark Orlando
10 wrote throughout my interview.

11 Q. How do you know that?

12 A. I recognize the notes. I recognize specific
13 references to the items in the notes and I recognize Mr.
14 Orlando's initials on all four pages.

15 MR. HAYDEN: I would ask that they be deemed
16 into evidence, your Honor.

17 THE COURT: Please show them to counsel.

18 MR. LEMKE: Your Honor, on behalf of Mr.
19 Orlando, no objection for, again, the purposes of this
20 hearing, your Honor. No objection.

21 MR. HOCHHEISER: Same as to Mr. Jeannot,
22 Judge.

23 THE COURT: All right, they are received,
24 deemed.

25 MR. HAYDEN: Yes, your Honor.

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1 (Whereupon, People's Exhibits 4A, B, C, and D were deemed
2 marked in evidence.)

3 Q. Were notes taken of the conversation with Mark
4 Orlando?

5 A. Yes, they were.

6 Q. Who took those notes?

7 A. Myself and Detective McGinn.

8 Q. How many pages did Detective McGinn take?

9 A. Six.

10 Q. How about yourself?

11 A. Two.

12 Q. Did you eventually reduce what Mark Orlando was
13 saying to writing?

14 A. Yes, I did.

15 Q. What time did you begin reducing what Mark Orlando
16 was saying to writing?

17 A. 12:10 a.m.

18 Q. Describe how you reduced what Mark Orlando was
19 telling you to writing.

20 A. Based on the details that he had provided me, I
21 would ask a question, he would give a response. I would say
22 the response back to him. If he agreed with it, I would then
23 reduce it to sentence form.

24 Q. When did you finish reducing what Mark Orlando was
25 telling you to writing?

1 A. Just before 2:00 a.m.

2 Q. What did you do with Mark Orlando's written
3 statement?

4 A. I read it back to him out loud.

5 Q. What else did you do?

6 A. I initialed some corrections that had been made, and
7 I also gave it to him to read to himself, asked him if he had
8 any questions, if he wanted anything changed, to let me know.

9 Q. Did he do that?

10 A. I don't believe he wanted anything changed. He
11 initialed the corrections. He did, however, ask that an
12 addendum be placed at the end of the statement.

13 Q. Did you do that?

14 A. Yes, I did.

15 Q. Was the statement signed?

16 A. He signed all of the pages, yes.

17 Q. Anyone else sign?

18 A. Myself and Detective McGinn.

19 MR. HAYDEN: I would ask that this five-page
20 original statement, your Honor, be deemed as People's 5
21 for identification and shown to the witness.

22 (Whereupon, People's Exhibit 5 was deemed marked for
23 identification.)

24 Q. Do you recognize that?

25 A. Yes, I do.

1 Q. What is it?

2 A. It's the five-page written statement that I took
3 from Mark Orlando on December 10, 2004.

4 Q. How do you know that?

5 A. The Homicide Squad number, the date, Mark Orlando's
6 signature as well as my signature and Detective McGinn's
7 signature.

8 MR. HAYDEN: People ask that it be deemed in
9 evidence, your Honor.

10 THE COURT: Please show it to counsel.

11 MR. LEMKE: On behalf of Mr. Orlando, your
12 Honor, again, for the purposes of this hearing, no
13 objection.

14 MR. HOCHHEISER: Same as to Mr. Jeannot.

15 THE COURT: Documents are received.

16 (Whereupon, People's Exhibit 5 was deemed marked in evidence.)

17 Q. Was Mark Orlando offered anything to eat or drink
18 that night?

19 A. Yes.

20 Q. When was that?

21 A. He had some water, and at about 2:00 a.m. he was
22 offered an egg sandwich that he refused. Later on in the day
23 he had a doughnut, and he also had lunch at about noon. I
24 don't recall what the specifics of lunch were, but it would be
25 a sandwich.

1 Q. Did Mark Orlando use the men's room whenever he
2 asked?

3 A. Yes.

4 Q. Describe Mark Orlando's physical condition while you
5 were with him that night..

6 A. He was fine. He appeared healthy.

7 Q. Did you see any injury to Mark Orlando?

8 A. No.

9 Q. Did he complain of any?

10 A. No, he did not.

11 Q. Describe his demeanor while he was speaking with
12 you.

13 A. He was calm, at times overly responsive to
14 questions, but he was responsive.

15 Q. What do you mean by overly responsive?

16 A. On some questions, instead of just answering the
17 question, he would continue on at length for a period of time.

18 Q. I'm directing your attention to around 4:30 in the
19 early morning of Friday, December 10 of 2004. Did you begin
20 speaking with Herve Jeannot at around that time?

21 A. Yes, I did.

22 Q. Where was Herve Jeannot when you began speaking with
23 him?

24 A. He was in the second interview room in the Homicide
25 Squad office.

1 Q. Describe that room.

2 A. It's a room that we use for interview purposes.
3 It's approximately eight feet by twelve feet. It has a desk,
4 three chairs; it also has a lounge. It has no window on the
5 door and it has a lock on the door.

6 Q. Who was present when you began speaking with Herve
7 Jeannot?

8 A. Detective Partee from the Homicide Squad.

9 Q. Was Herve Jeannot handcuffed then?

10 A. No, he was not.

11 Q. Describe the circumstances under which you began
12 speaking with Herve Jeannot.

13 A. At about 4:20 a.m. I was in the Homicide Squad
14 office. Mr. Jeannot was being interviewed by Detective Trillo
15 and Detective Partee from the Homicide Squad. Detective
16 Trillo came out of the interview room and advised me that
17 Herve Jeannot had told him that he had shot and killed Bobby
18 Calabrese. I spoke to Detective Trillo about his interview at
19 that time. I wanted to make sure there was nothing that I was
20 unaware of as to whether there were other people involved,
21 whether there was another automobile involved. He had told me
22 no, none of those other things came up. At that point in time
23 I went into the interview room.

24 Q. Describe any initial conversation you had with Herve
25 Jeannot.

1 A. When I went into the room, I was introduced to Herve
2 Jeannot by Detective Partee. He introduced me as the
3 investigating detective. I advised him that he had been given
4 his rights earlier by Detective Brosnan. He said yes, he was.
5 I asked him if he understood those rights and if he was
6 willing to speak to me at that time. He said yes. I then
7 said to him, "I've been told by these detectives that you shot
8 and killed Bobby Calabrese." He said yes. I said, "Why did
9 you do that?" He said, "I was paid \$4,000 to do it by Mark
10 Orlando."

11 Q. Describe any further conversation.

12 A. I asked him to describe to me the events that led up
13 to that situation. He told me that on Wednesday, December 1,
14 he was at work with Mark Orlando when Mark Orlando told him
15 that he owed a \$17,000 gambling debt to a guy named Bobby,
16 that he didn't have the money and that he was going to have to
17 kill him. On Friday -- at that time on Wednesday he also told
18 him that he was going to meet with him either on Friday or
19 Saturday night. He didn't know which. He'd probably meet him
20 down by some junkyards in Island Park.

21 On Friday, again at work, Mark Orlando spoke to him
22 about killing Bobby Calabrese. He told him -- Orlando told
23 him he may meet with him, hit him in the head with a large
24 rock or a boulder, try to render him unconscious and then
25 light his automobile on fire and burn him to death. He also

1 spoke about using a shotgun to kill him, but he said a shotgun
2 makes too much noise and the shotgun that he did have was
3 registered in his name, so he knew he couldn't use that.
4 Later in the day he told him that he was going to meet --
5 Orlando told him that he was going to meet Calabrese that
6 night, that Friday night in Island Park.

7 After work they had gone together in the Suzuki
8 Verona owned by Mr. Orlando to someone's house in Amityville
9 to buy a coat. After they left the house in Amityville after
10 the purchase, while they were driving to the gym on 110, Mark
11 Orlando told Herve Jeannot that it would be easier for Jeannot
12 to kill Bobby Calabrese than it would be for him to do it and
13 he would pay him \$4,000 to do it. Jeannot agreed that for
14 \$4,000 he would kill Bobby Calabrese when they met in Island
15 Park that night.

16 They went to the LA Fitness gym. They left the gym
17 at about 7:15 or 7:30 p.m. While they were at the gym there
18 were some other coworkers there, Barbara Diamont, Tommy Flores
19 and another girl. They then drove -- after they left the gym,
20 they drove down to Island Park. Mr. Jeannot told me he wasn't
21 really familiar with that area. Orlando was driving. They
22 drove down there. When they got down there, they parked by an
23 area with junkyards and a restaurant that was empty, out of
24 business.

25 They sat there for a little while. While they were

1 sitting there, Mark Orlando took a gun out of a black bag that
2 he had in the back seat and he showed the gun to Mr. Jeannot.
3 Jeannot looked at the gun, saw that it was loaded. I asked
4 him if he knew what kind of a gun it was. He said yes, it was
5 a .44 caliber Smith & Wesson and it was loaded with six copper
6 jacketed bullets.

7 In their earlier discussions prior to the murder,
8 Orlando had asked Jeannot to get a gun. Mark Orlando said
9 that he had his own. He told Jeannot to try and get a gun in
10 case there was somebody else there with Bobby Calabrese. Mr.
11 Jeannot told me he had tried to get a gun through some people
12 in Uniondale but he was unsuccessful. I asked Mr. Jeannot how
13 he knew or remembered that it was a .44 caliber Smith &
14 Wesson. He told me he had dealt with guns before; he was in
15 the military.

16 He kept the gun. They sat there a couple of
17 minutes. Mark Orlando told him -- and they saw that there was
18 a body shop or a garage that was open on Industrial Place.
19 Mark Orlando was also concerned about some video cameras in
20 the junkyards, so they decided to move. They drove a little
21 distance to an area over by a 7-11 that was dark. They drove
22 around the block a couple of times. They parked. Mark
23 Orlando called Bobby. Mark Orlando told Jeannot that Bobby
24 would be there in about five minutes. They stayed in the same
25 spot that they were parked. Mr. Jeannot got out of the car,

1 hid behind the right rear passenger fender.

2 After a couple of minutes, he saw an automobile pull
3 up, park in front of their automobile. Mark Orlando got out,
4 went up, was talking face to face with Bobby. Mr. Jeannot
5 circled around behind Orlando's car, came up behind Orlando.
6 Bobby Calabrese saw him, appeared to have fallen to the
7 ground, was holding on to Mark Orlando's leg. Herve Jeannot
8 said he went up, fired one shot into his head. Bobby
9 Calabrese rolled over onto his stomach. He then went and
10 fired two more shots into his head. They got back into their
11 Suzuki, made a sharp left-hand turn, cut through a car repair
12 shop and headed through Long Beach.

13 While on the Loop Parkway, Herve told me he threw
14 the bullets and the shell casings that were in the gun off of
15 a bridge, and at a second bridge they threw the gun into the
16 water. He was the passenger in the car. Mark Orlando told
17 Herve that they were going to be seen, that they should be
18 seen by as many people as possible. So they stopped by the
19 Wantagh Suzuki dealership to try and pick up that check but it
20 was closed. They -- Mark Orlando also stopped at an ATM in
21 Wantagh, made a withdrawal. They then continued and went
22 north on the Seaford-Oyster Bay.

23 They were going to visit a coworker by the name of
24 Vivian Barushik. They exited the Seaford-Oyster Bay someplace
25 up in Plainview. There was a dumpster in a schoolyard. Mr.

1 Jeannot told me he took his clothing and put it in that
2 dumpster. They then went up to Plainview, visited with Vivian
3 for a while. After that was done, they drove to Mark
4 Orlando's house where he paid Herve the \$4,000 cash. After
5 that, Mark Orlando dropped him off at home in Deer Park.

6 I asked him where the money is that he was paid. He
7 said he had paid off a student loan from Nassau Community
8 College. He had bought some clothing and he had \$500, five
9 one-hundred-dollar bills left of that money in a shoebox in
10 his room at his house.

11 Q. Did you take notes of your initial conversation with
12 Herve Jeannot?

13 A. Some notes, yes.

14 Q. How many pages?

15 A. It's encompassed in those same two pages.

16 Q. Did you begin reducing what Herve Jeannot was
17 telling you to writing?

18 A. Yes, I did.

19 Q. When did you begin reducing what Herve Jeannot was
20 telling you to writing?

21 A. About 5:00 a.m.

22 Q. Describe how you reduced what Herve Jeannot was
23 telling you to writing.

24 A. Based on the details that he had provided, I would
25 ask him a question; he would provide an answer. I would read

1 him back the answer that he gave me. I would then construct
2 it in sentence form and reduce it to writing.

3 Q. When did you finish reducing what Herve Jeannot was
4 telling you to writing?

5 A. About 6:00 a.m.

6 Q. What did you do with Herve Jeannot's written
7 statement?

8 A. I read it back to him out loud. I initialed one
9 correction. I gave him the statement to read. I told him,
10 "If there's any corrections or anything you don't understand,
11 that you want changed, to let me know." He said after he was
12 finished reading it that it was fine, it was the truth. I
13 asked him to initial the correction, and I asked him to sign
14 all five pages, which he did.

15 Q. Did anyone else sign?

16 A. I signed it as well as Detective Partee.

17 MR. HAYDEN: I would ask that this five-page
18 written statement be marked as or deemed as People's 6
19 for identification and shown to the witness, your
20 Honor.

21 (Whereupon, People's Exhibit 6 was deemed marked for
22 identification.)

23 Q. Do you recognize that?

24 A. Yes, I do.

25 Q. What is it?

1 A. It's the five-page written statement I took from
2 Herve Jeannot on December 10, 2004..

3 Q. How do you know that?

4 A. Herve Jeannot's signature as well as my signature,
5 Detective Partee's signature, the Homicide Squad number and
6 the date.

7 MR. HAYDEN: People would ask that that be
8 deemed as six in evidence.

9 THE COURT: Please show it to counsel.

10 MR. HOCHHEISER: No objection as to Jeannot
11 for purposes of the hearing, Judge.

12 MR. LEMKE: As well as Mr. Orlando, your
13 Honor.

14 THE COURT: Document is received.

15 (Whereupon, People's Exhibit 6 was deemed marked in evidence.)

16 Q. I'm directing your attention to around 8:05 that
17 Friday morning. Did you speak with Herve Jeannot then about
18 giving a videotaped statement?

19 A. Yes, I did.

20 Q. Describe the conversation you had with Herve Jeannot
21 about giving a videotaped statement.

22 A. I explained to him that since he had given a written
23 statement, we would afford him the opportunity to go over to
24 the District Attorney's Office, speak with a district
25 attorney, sit down and have his statement videotaped.

1 Q. What did he say?

2 A. He said he didn't want to do that. He didn't think
3 it would be fair to his family.

4 Q. Did he sign a form?

5 A. Yes, he did.

6 Q. Describe that form.

7 A. It's a preprinted form that we have in the office
8 that encompasses the video refusal. I filled in the necessary
9 blanks. I asked him to sign it. He did and I witnessed it.

10 MR. HAYDEN: Your Honor, I would ask that this
11 original document be marked as People's 7 for
12 identification, deemed as seven for identification and
13 shown to the witness, please.

14 (Whereupon, People's Exhibit 7 was deemed marked for
15 identification.)

16 Q. Do you recognize that?

17 A. Yes, I do.

18 Q. What is it?

19 A. It's the videotape interview refusal form that I
20 just described.

21 Q. How do you know that?

22 A. My signature, the date, as well as Herve Jeannot's
23 signature.

24 MR. HAYDEN: People ask that be deemed as seven
25 in evidence, your Honor.

1 THE COURT: Please show it to both counsel.

2 MR. HOCHHEISER: No objection, as to Mr.

3 Jeannot for purposes of the hearing.

4 MR. LEMKE: As well as Mr. Orlando, your
5 Honor.

6 THE COURT: Document is received.

7 (Whereupon, People's Exhibit 7 was marked in evidence.)

8 Q. Was Herve Jeannot offered anything to eat or drink?

9 A. Yes, he was.

10 Q. When was that?

11 A. Throughout the course of the night. I believe he
12 had an egg sandwich somewhere around 2:00 a.m. I also know he
13 had lunch somewhere around noon.

14 Q. Anything to drink?

15 A. Water, that I recall.

16 Q. Did Herve Jeannot use the men's room whenever he
17 asked?

18 A. Yes, he did.

19 Q. Describe Herve Jeannot's physical condition while
20 you were with him.

21 A. He was fine. He appeared healthy.

22 Q. Did you observe any injury to him?

23 A. None.

24 Q. Did he complain of any?

25 A. No, he did not.

1 Q. Describe Herve Jeannot's demeanor while you were
2 with him.

3 A. At first throughout the interview he was calm. He
4 was responsive. However, after the written statement was
5 finished he did break down and cry for about 15 minutes.

6 MR. HAYDEN: Nothing further at this time, your
7 Honor.

8 THE COURT: Gentlemen?

9 MR. HOCHHEISER: Judge, now would be a good
10 time to take a five-minute break.

11 THE COURT: If you'd like, sure, we'll take
12 five minutes.

13 (Whereupon, a recess was taken.)

14 THE COURT: Gentlemen?

15 MR. HOCHHEISER: Judge, if it's okay with the
16 Court, I was going to go first.

17 THE COURT: By all means.

18 CROSS-EXAMINATION

19 BY MR. HOCHHEISER:

20 Q. Detective, good morning.

21 A. Good morning.

22 Q. As you know, my name is Daniel Hochheiser. I
23 represent Herve Jeannot. Nice to see you again.

24 When was the first time, Detective, that you heard
25 the name Herve Jeannot?

1 A. The full name, first and last name?

2 Q. Any reference to Jeannot or Herve.

3 A. The first time I heard the name Herve would be on
4 Sunday, December 5, 2004.

5 Q. And who or what was the source of your hearing the
6 name Herve on December 5?

7 A. Tom Flores.

8 Q. And it's fair to say, Detective, that Mr. Flores was
9 the first witness that you interviewed in this matter?

10 A. During the course of this homicide investigation?

11 Q. Civilian witness.

12 A. There were other witnesses. If you want to be more
13 specific as to the type of witness. There were other
14 witnesses in the case that were interviewed before Flores.

15 Q. By you?

16 A. Yes.

17 Q. But Mr. Flores was the first witness who mentioned
18 either Herve or Jeannot to you in those interviews?

19 A. I believe that's correct, yes.

20 Q. Before interviewing Mr. Flores, did you obtain any
21 information from any other witnesses which you believed tended
22 to connect Herve Jeannot to the Calabrese homicide?

23 A. No.

24 Q. Now, in your December 5 interview with Mr. Flores,
25 he told you that Orlando and he drove to work together. I

1 believe this was the Thursday before the homicide. Correct?

2 A. Yes.

3 Q. And that Orlando complained to Flores about wanting
4 to make these two \$5,000 bets but was not able to; is that
5 right?

6 A. Yes.

7 Q. And Flores also told you in that interview that he
8 had observed earlier in the week before the murder that
9 Orlando -- that he saw Orlando and Herve at work whispering
10 together throughout the week; is that right?

11 A. Yes.

12 Q. And you also testified, I believe, that Mr. Flores
13 told you in that conversation that Orlando and Herve, when
14 they were at the gym on the evening of December 3, that they
15 seemed in a hurry, correct?

16 A. Yes.

17 Q. Now, they didn't do much exercise?

18 A. Yes.

19 Q. Now, you agree with me that as a result of your
20 December 5 conversation with Mr. Flores that he did not
21 provide you with any information that would lead you to
22 believe that Mr. Jeannot shot Calabrese, correct?

23 MR. HAYDEN: Objection.

24 THE COURT: Overruled.

25 A. I wouldn't agree with that, no.

1 Q. Well, what is accurate?

2 A. He provided me with information that Herve Jeannot
3 was in the company of Mark Orlando, and I'm talking about at
4 the time now when I'm talking to Flores.

5 Q. December 5 we're talking about.

6 A. Right, both of them are present at the homicide
7 scene. This is based on other factors other than just Flores,
8 or you're just talking about Flores?

9 Q. We're talking about your conversation with Flores,
10 the information that came from him. You're not testifying
11 here that Flores told you on December 5 that he knew that
12 Orlando and Herve were at the scene of the homicide, are you?

13 A. Flores knew that they were in the area of the
14 homicide.

15 Q. Did you ask him how he knew that?

16 A. Yes, I did.

17 Q. And what did he say?

18 A. He had spoken to Mark Orlando who told him that.

19 Q. And what did Mr. Flores tell you Mark Orlando told
20 him about that?

21 A. That Mark Orlando and Herve Jeannot had driven
22 together down to Island Park to the area of Industrial Place
23 by McQuade's restaurant, by Puma's auto body and they had met
24 with the victim.

25 Q. So it's fair to say as a result of this December 5

1 interview with Mr. Flores that you knew from him that Mr.
2 Jeannot and Mr. Orlando were alleged to have been at the
3 scene, but that was the extent of the information? You
4 weren't given any information about who actually did the
5 shooting because Mr. Flores didn't know that, correct?

6 A. That's correct.

7 Q. For example, as a result of your conversation with
8 Mr. Flores, Mr. Flores didn't provide you with any information
9 as to whether Mr. Orlando was responsible for the killing or
10 Mr. Jeannot or both, correct?

11 A. That's correct.

12 Q. So you agree with me at the conclusion of your
13 interview with Mr. Flores you did not have probable cause to
14 arrest Herve Jeannot, correct?

15 A. I would say no.

16 Q. You did not, correct?

17 A. Correct.

18 Q. And that's why you continued your investigation and
19 interviewed other witnesses?

20 A. Yes.

21 Q. And who is the next witness that you interviewed --
22 well, withdrawn.

23 Who was the next civilian witness that you
24 interviewed who mentioned the name either Herve or Jeannot
25 after Tommy Flores?

1 A. Barbara Diamont.

2 Q. And is that the December 7 conversation?

3 A. That's the December 5.

4 Q. How many times did you interview her?

5 A. Me personally?

6 Q. Yes.

7 A. Probably about half a dozen times.

8 Q. And each of those half a dozen times did you take
9 notes of your meeting with her about the conversation?

10 A. No.

11 Q. Did you ever take notes about your conversations
12 with her?

13 A. Me personally?

14 Q. Yes.

15 A. No.

16 Q. Who did?

17 A. Detective Nigro and I believe Detective Brosnan
18 interviewed her.

19 Q. So were you present with Detective Nigro on December
20 5 when he actually interviewed her or you just read his
21 report?

22 A. I spoke to her after he did that same day.

23 Q. And is this an accurate summary of the main things
24 that she said about Jeannot during the interviews with
25 Detective Nigro and you, that on Thursday, December 2, Mark

1 said he was -- Mark Orlando said he was mad about not being
2 able to place the bets with the victim because his line was
3 closed; is that right?

4 A. Yes.

5 Q. And that she observed Mark and Herve, whose last
6 name she didn't know at the time on December 2, talking in the
7 rear of the cafeteria by themselves, correct?

8 A. Yes.

9 Q. And she didn't have any information as to what was
10 discussed in the cafeteria at that time, did she?

11 A. No.

12 Q. And on December 3, 2004, this is according to
13 Barbara Diamont's interview conducted by Detective Nigro, I
14 believe, that Herve showed up with another female employee at
15 lunch at a separate table at the same restaurant she was
16 eating; is that correct?

17 A. I don't know about that.

18 Q. And that Mark and Herve showed up at the gym on the
19 evening of December 3, right?

20 A. Yes.

21 Q. She told you that? And she also said, like Flores,
22 she said that Mark and Herve left the gym abruptly at about
23 7:15, right?

24 A. Yes.

25 Q. Now, is it fair to say that after the December 5

1 interviews of Barbara Diamont by the Nassau Police Department,
2 that you didn't obtain any information about Herve Jeannot's
3 role in the homicide; is that correct?

4 A. I don't think that's fair to say, no. There were --

5 Q. What did Barbara Diamont tell you Herve Jeannot's
6 role in the homicide was?

7 A. You're talking about relative to Barbara Diamont?

8 Q. Just Barbara Diamont.

9 A. I'm sorry. No, I agree with you.

10 Q. So it's fair to say that after the interviews with
11 Tom Flores and Barbara Diamont, that what you knew from those
12 two witnesses only was that Herve Jeannot and Mark Orlando had
13 gone to the gym before the homicide and that they had left in
14 a hurry and that Mr. Flores had received information the
15 following morning that Bobby was killed. Is that fair?

16 A. You're saying that's all the information that I got
17 from them is this?

18 Q. That's the basic extent of the information from
19 those two witnesses in terms of linking Herve Jeannot to this
20 incident; is that correct?

21 A. No, that's not correct.

22 Q. What is correct?

23 A. Mark Orlando -- we're talking relative to Jeannot
24 only or Orlando and Jeannot together?

25 Q. I'm concerned about Mr. Jeannot.

1 A. I understand that. That's why I'm asking you,
2 because I'm going to answer about both.

3 Q. If we could just stick to Mr. Jeannot.

4 A. The acknowledgment through Mr. Orlando that Jeannot
5 was there at the time of the homicide, and I'm saying as I
6 deemed that through my investigation, to Barbara Diamont and
7 Tom Flores is additional stuff, yes.

8 Q. You're testifying here today that Barbara Diamont
9 told you that Mark Orlando told her that Herve Jeannot was at
10 the scene of the homicide?

11 A. I'm saying that Mark Orlando provided details of the
12 homicide to Barbara Diamont, and Mark Orlando provided details
13 to Tom Flores that Herve Jeannot and Mark Orlando were at the
14 homicide scene.

15 Q. And what did Barbara Diamont tell you that Orlando
16 told her about Herve's involvement in the homicide?

17 A. Nothing.

18 Q. And that's the same for Flores, correct?

19 A. Flores too?

20 Q. Flores tells you nothing about Jeannot's involvement
21 in the homicide, correct?

22 A. Other than what I described.

23 Q. By the way, Tommy Flores, you first, I believe,
24 interviewed him on December 5, but then you obtained a written
25 statement from him on the 7th; is that correct?

1 A. That's correct.

2 Q. Can you explain why you didn't reduce his statement
3 on the 5th to writing for two days?

4 A. Both Tom Flores and Barbara Diamont had come to the
5 Homicide Squad office to be interviewed. It took quite a
6 while. Mr. Flores had to make arrangements to attend the
7 wake, so he had to leave. So we followed up on it two days
8 later.

9 Q. And the statement, the written statement that was
10 ultimately obtained from Mr. Flores, is it fair to say that
11 that information which was reduced to writing came from the
12 December 5 interview, not a new interview on the 7th, correct?

13 A. The bulk of the information would have been from the
14 5th, yes.

15 Q. Just for logistical scheduling reasons it wasn't
16 reduced to writing until two days later?

17 A. That's correct.

18 Q. Now, who is the next witness you interviewed after
19 Barbara Diamont in the investigation in terms of Herve Jeannot
20 mentioned, as to a mention of Herve Jeannot, if anybody?

21 A. No one.

22 Q. So it's fair to say that before the arrest of Herve
23 Jeannot, Barbara Diamont and Tom Flores are the only civilian
24 fact witnesses that were interviewed mentioning my client's
25 name, correct?

1 A. Yes.

2 Q. And you continued your investigation December 8. I
3 believe you testified that you obtained cell phone records of
4 Mr. Calabrese?

5 A. Somewhere around the 8th, yes.

6 Q. And also for Mr. Orlando?

7 A. Yes.

8 Q. And Mr. Jeannot?

9 A. Yes.

10 Q. And you established, I believe you testified, that
11 those cell phone records revealed that calls from Mark
12 Orlando's cell phone and Herve Jeannot's cell phone on the
13 evening of the homicide, they hit a cell site near the scene,
14 correct?

15 A. Yes.

16 Q. And it also helped you establish that at 8:24 p.m.
17 Mr. Orlando called Calabrese, correct?

18 A. Yes.

19 Q. And that at 8:38 p.m. Mr. Calabrese received a call
20 from a Sean Monaghan. In that conversation Calabrese said
21 something to the effect of couldn't speak, doing something,
22 right?

23 A. They had a brief conversation, yes.

24 Q. Now, is it fair to say that in terms of connecting
25 my client, Mr. Jeannot, to the homicide, as of December 8 your

1 sources of information are Barbara Diamont's statement, Tom
2 Flores' statement and the results of the -- of these -- your
3 review of these cell phone records; is that fair?

4 A. Yes.

5 Q. And the next day on December 9 you attended this
6 pre-arrest briefing at police headquarters from about 6 to 8
7 o'clock; is that correct?

8 A. Yes.

9 Q. And were you, as the case detective who's in charge
10 of the case, were you the one who provided lieutenant, I
11 believe his name was Mulrain, with the information that he
12 used to plan the strategy for the arrest?

13 A. Myself and my supervisor, Lieutenant Farrell, would
14 have provided him with the details, the particulars of the
15 individuals, where we were going and that part of it. Mulrain
16 would have coordinated the actual tactical end of it. That's
17 his responsibility.

18 Q. Because Mulrain is special operations?

19 A. That's correct.

20 Q. And your lieutenant is Homicide?

21 A. That's correct.

22 Q. So your supervisor, Lieutenant Farrell, his
23 information about the homicide comes from you, correct?

24 A. Well, he's been involved in the case with me. He's
25 assigned to the case with me, and he knows what's going on in

1 the case.

2 Q. I understand. But in terms of chain of command,
3 since you're the case detective, you're basically his source
4 of information about the case. He's not going out and
5 interviewing witnesses, correct?

6 A. No, he's not. I'm the source, right, to him.

7 Q. And who was the source for Lieutenant Mulrain, you
8 or Lieutenant Farrell?

9 A. Both of us.

10 Q. Now, Lieutenant Mulrain runs the meeting; is that
11 right?

12 A. No.

13 Q. Who runs the meeting?

14 A. Lieutenant Farrell.

15 Q. And who was present at this meeting, if you recall?

16 A. I would believe most, if not all, of the Homicide
17 Squad office members.

18 Q. You, McGinn, Brosnan, correct?

19 A. There's about 15 of us. There's about 15 members.

20 Q. The entire Homicide Squad office is there?

21 A. I'm saying most, if not all. Whether it was
22 somebody could have been on vacation, somebody could have been
23 doing something else. But I would say the bulk of the office
24 was involved. Anywhere from 12 to 15 people.

25 Q. This includes Brosnan, McGinn, Partee?

1 A. Correct.

2 Q. Nash?

3 A. Nash, yeah.

4 Q. And there are special operations officers there who
5 are actually going to make the arrest, correct?

6 A. Yes.

7 Q. And what -- when the special operations officers
8 like Brady and Loschiavo, when they arrive at this meeting,
9 what do they know about the homicide investigation before
10 Lieutenant Farrell speaks to them?

11 A. I don't know that Lieutenant Farrell speaks directly
12 to them. He may have had their supervisor, Lieutenant
13 Mulrain, speak to them. This two-hour meeting that we're
14 talking about would have had various aspects of it. We didn't
15 sit there for two hours and discuss it. I was involved at
16 some point. Lieutenant Mulrain would have been involved with
17 his people. If he had a question or a specific thing, he
18 would have gone back to Lieutenant Farrell. That's the way
19 those things go.

20 Q. Who spoke to Officer Brady at the briefing?

21 A. I would know certainly his supervisor, Lieutenant
22 Mulrain. You're talking about whether he was directly
23 addressed as to what was going on or was he addressed in the
24 group?

25 Q. I'm trying to figure out -- Officer Brady, Marinace

1 and Hughes, they're the ones who arrest my client, Jeannot.
2 I'm trying to ascertain the sources of their information
3 before they make the arrest. Is it correct that Lieutenant
4 Mulrain is the source of their information about the homicide?

5 A. He would certainly be a part of it.

6 Q. The main source maybe is fair?

7 A. The main source, you're talking about relative to
8 the homicide? The main source -- their main source would be
9 Lieutenant Mulrain, because they're dealing in the tactical
10 part of the case. They're not dealing in the homicide
11 investigation itself.

12 Q. You talked to Farrell, Farrell to Mulrain, Mulrain
13 to Brady, Marinace and Hughes, right?

14 A. Once in a while they let me sneak in there a little
15 bit but that's basically it.

16 Q. What did you say to those guys? What did you say to
17 Brady, Marinace and Hughes about the case?

18 A. About the case?

19 Q. Yes.

20 A. I didn't discuss the particulars of the case other
21 than the fact that both have warrants and we're looking to
22 arrest them.

23 Q. Did you tell Brady, Marinace and Hughes that they
24 were invited to this briefing to plan an arrest of Mr. Jeannot
25 on warrants?

1 A. Their supervisor, Lieutenant Mulrain, would have
2 been briefed by myself and Lieutenant Farrell about the
3 aspects of the case, including the warrants. He then would
4 have taken it and explained it to his men. Whether they
5 physically were there while I was discussing one aspect of
6 this with their lieutenant or I was discussing an aspect of
7 the case with Lieutenant Farrell I wouldn't know. I don't
8 recall.

9 Q. But their job was to make an arrest for a homicide.
10 You wouldn't have had a two-hour briefing for the misdemeanor
11 warrants, correct?

12 A. We're arresting two people relative to a homicide
13 investigation, yes.

14 Q. Did you make any notes during the debriefing, the
15 two hours?

16 A. No.

17 Q. Did you observe anybody taking notes at the
18 debriefing?

19 A. No, I did not.

20 Q. Now, there came a time, I believe, when officer --
21 well, withdrawn.

22 How did you hear that Brady, Hughes and Marinace had
23 Jeannot in custody?

24 A. I believe I got a telephone call.

25 Q. You were in the office?

1 A. No, en route to the office.

2 Q. And where had you been coming from? I'm not looking
3 to pry into your personal life.

4 A. I was en route to the Homicide Squad office from the
5 Airport Plaza place of arrest of Mr. Orlando.

6 Q. And what were you told -- who did you have the
7 telephone conversation with at that time?

8 A. I believe it was Lieutenant Farrell.

9 Q. What did he say to you?

10 A. That Jeannot's arrested. He would be on his way
11 into the office soon.

12 Q. And what's -- after you had that telephone
13 conversation with Lieutenant Farrell, shortly thereafter Mr.
14 Jeannot was presented to you and you took custody of him,
15 correct?

16 A. Mr. Jeannot?

17 Q. Yes.

18 A. I was not involved in the arrest of Mr. Jeannot.

19 Q. He was taken into custody by Detective Brosnan?

20 A. You're asking me if I knew that at that time right
21 when it happened?

22 Q. Well, when's the next time you see -- withdrawn.

23 You hear that Jeannot has been arrested. What's the
24 next time you hear the name Jeannot or see Jeannot?

25 A. I see Jeannot -- I become aware that he's in the

1 Homicide Squad office probably about 10:20, maybe 10:25 p.m.,
2 on the 3rd -- I'm sorry, on the 9th.

3 Q. And your understanding now and then is that Jeannot
4 was arrested at about 9:15 p.m. December 9 in front of
5 Professional Credit Services, right?

6 A. Yes.

7 Q. And do you know where Jeannot was brought initially
8 into the Homicide Squad, what room?

9 A. Yes, I do.

10 Q. Where was this?

11 A. He would have been in what we refer to as the second
12 interview room.

13 Q. And he was brought there by Detectives Brosnan and
14 Nash; is that right?

15 A. Yes. I believe it's Brosnan and Nigro.

16 Q. Now, what time did Detectives Brosnan and Nigro
17 bring Mr. Jeannot into the second interview room?

18 A. I don't know.

19 Q. Do you have an idea?

20 A. Yes.

21 Q. What?

22 A. About 20 to -- or 10:12 p.m., somewhere around
23 there.

24 Q. And Detective Brosnan and some other detectives,
25 they speak to Jeannot for a number of hours before you even

1 become involved, correct?

2 A. Yes.

3 Q. And during those hours, he's in this room which I
4 believe you testified is eight by ten, right?

5 A. I believe I testified that one's about eight by
6 twelve.

7 Q. My mistake. And he was handcuffed to a chair?

8 A. When?

9 Q. When he was sitting there in the second interview
10 room.

11 A. What time?

12 Q. Was he handcuffed to a chair at any time?

13 A. That I was with him? I wouldn't know if he was
14 handcuffed to a chair at any other time other than when I was
15 with him. When I was with him, he was not handcuffed to a
16 chair.

17 Q. So your next -- is it fair to say your next contact
18 or information that you received about the interview of
19 Jeannot is when Detective Trillo comes to you and says he said
20 he shot the guy, something like that?

21 A. You're asking me if that's my first contact with him
22 or is that the first thing that I become aware of relative to
23 what's transpired throughout the evening?

24 Q. My question, I think, is bad. Let me rephrase it.
25 You're involved in the interview of Orlando and some other

1 matters in the investigation. Detectives Brosnan and Nigro or
2 whoever, they're talking to Jeannot, correct?

3 A. Correct.

4 Q. And during those several hours until Trillo comes to
5 talk to you, you don't have contact with Jeannot; am I right?

6 A. No, I do not.

7 Q. And it's only after Trillo comes to you, that's when
8 you begin to become involved in the interview process,
9 correct?

10 A. Yes.

11 Q. What does Detective Trillo tell you exactly in that
12 conversation?

13 A. That Herve Jeannot has told him, he and Detective
14 Partee, that he shot and killed Bobby Calabrese.

15 Q. Now, what time is that conversation between you and
16 Detective Trillo?

17 A. Between 4:20 and 4:30 a.m.

18 Q. December 10?

19 A. Yes.

20 Q. Did Detective Trillo say anything else to you during
21 that conversation that you recall?

22 A. Yes, I asked him if anything had changed, because
23 Detective Trillo had been involved in the case. There was a
24 written statement that was taken from Herve Jeannot, and I
25 wanted to know if anything changed as far as the details that

1 I knew. Was there anyone else involved? Was there another
2 automobile involved? Did I have -- those facts that we had,
3 were they correct? And he said yes. There was nothing new or
4 nothing that I didn't know about.

5 Q. So before the conversation between you and Trillo
6 when he approaches you about Herve saying that he shot the
7 guy, you were aware of and had reviewed a first written
8 statement; is that fair?

9 A. Yes.

10 Q. And who took that written statement?

11 A. Detective Brosnan.

12 Q. And what was the gist of that written statement as
13 you recall?

14 A. That Herve Jeannot and Mark Orlando after work on
15 Friday had gone to the LA Fitness Center. They had gone out
16 to -- prior to that, after work they had gone to buy a coat in
17 Amityville. Mark Orlando was supposed to go pick up a check
18 at Wantagh Suzuki, so he was out. Herve was out hanging
19 around with Mark Orlando, and Mark had to drive down to Island
20 Park to pay a gambling debt to Bobby Calabrese. Then he
21 detailed what happened when they got down there.

22 Q. Well, in that statement he said that he believes
23 Orlando paid him and then they left, correct?

24 A. That's correct.

25 Q. In that version there's no killing, right?

1 A. That's correct.

2 Q. So the change in Mr. Jeannot's version of events
3 first developed when you were outside the second interview
4 room; is that correct?

5 A. Yes.

6 Q. And you're not aware exactly of what Detective
7 Trillo and Detective Partee -- Detective Brosnan?

8 A. Partee.

9 Q. -- said to Mr. Jeannot during that six-hour period,
10 correct?

11 A. They weren't with him for six hours.

12 Q. How long were they with him?

13 A. I'd say about an hour.

14 Q. From when to when?

15 A. From about 3:30 to about 4:20, until Trillo comes
16 out and gets me.

17 Q. What was happening with Mr. Jeannot between 10:12
18 p.m. when he was placed in the second interview room and 3:30
19 when Detective Partee and the rest started to interview him?

20 A. He was interviewed by Detective Brosnan and
21 Detective Nigro, and he made a written statement in that time
22 period to Detective Brosnan.

23 Q. And that was also an exculpatory statement, correct?
24 He didn't say that he did it to those detectives?

25 A. No, he did not.

1 Q. He said he was present but --

2 A. Present. Mr. Orlando paid his gambling debt and
3 they left. And the victim drove off and was fine.

4 Q. The first -- before the time that Detective Trillo
5 came to you and told you about this change in the version from
6 Jeannot, is it fair to say that you didn't believe what
7 Jeannot was saying to the other detectives? Is that fair?

8 A. Yes.

9 Q. What was your belief -- withdrawn.

10 Before Detective Trillo came to speak to you about
11 Mr. Jeannot's alleged confession, what was your understanding
12 about Mr. Jeannot's real role in the homicide?

13 MR. HAYDEN: Objection.

14 THE COURT: Sustained.

15 Q. Did you ever tell Mr. Jeannot that you didn't
16 believe him?

17 A. When I spoke to Mr. Jeannot, I did believe him.

18 Q. This is before the conversation between you and
19 Trillo?

20 A. There was no conversation between Jeannot and I
21 before the conversation with Trillo.

22 Q. But you had seen the prior statements from Jeannot
23 to Partee, correct?

24 A. Yes.

25 Q. And that statement you did not believe, correct?